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IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF ALASKA

DISABILITY LAW CENTER OF
ALASKA, NATIVE PEOPLES
ACTION COMMUNITY FUND,
ALASKA PUBLIC INTEREST
RESEARCH GROUP, ALEIJA
STOVER, and CAMILLE ROSE
NELSON,

Plaintiffs,

v.

KEVIN MEYER, LIEUTENANT
GOVERNOR OF ALASKA and the
STATE OF ALASKA, DIVISION
OF ELECTIONS,

Defendants.

Case No. 3:20-cv-173-JMK

Pursuant to Federal Rule of Civil Procedure 62(d) and Federal Rule of Appellate Procedure 8(a)(1), Plaintiffs Disability Law Center Of Alaska, Native Peoples Action Community Fund, Alaska Public Interest Research Group, Aleija Stover, and Camille Rose Nelson, request that this Court grant Plaintiffs' requested injunction pending appeal.

First, as stated in Plaintiffs' filings and at oral argument, there will be no realistic way to remedy the unconstitutional discrimination if additional mailings are not made as soon as possible. If Plaintiffs are successful on appeal, by the time a decision is issued, the particular relief requested will be moot.

Second, the Court erred in denying relief for the reasons stated in Plaintiffs' filings and at oral argument. In particular, the Court incorrectly held that the Twenty-Sixth Amendment does not apply to this case. The Court also incorrectly accepted the State's illogical claim that a mailing of 100,000 additional paper applications somehow *reduced* the supposed "practical concern regarding the Division of Elections' ability to effectively process high volumes of paper applications as justification for preferring that the majority of Alaskans utilize the online application apparatus."¹ Logically, there is no way that placing more *paper* applications in the hands of voters can further an interest in increasing the number of *online* applications. Defendants'

¹ Order at 10–11.

explanation thus does not even withstand the rational basis test, even assuming the Court is correct that there is only a minimal burden on Plaintiffs' right to vote.

For those reasons and those already stated, an injunction pending appeal is warranted. The injunction requested is identical to that initially requested: that Defendants 1) immediately mail absentee ballot applications to all eligible Alaskan voters who have not yet received one; and 2) provide equal assistance in voting absentee to all eligible voters during the general election.²

Dated this 4th day of September 2020, at Anchorage, Alaska.

/s/ Scott M. Kendall

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² Dkt. No. 13 at 2–3.

CERTIFICATE OF SERVICE

I hereby certify that, on the 4th day of September 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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